

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Federal-State Joint Board on Universal Service: )  
Interim Hold-Harmless Provision )  
of the Commission's High-Cost Support )  
Mechanism )

CC Docket No. 96-45  
FCC 99J-2

**RECEIVED**  
**DEC 15 1999**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY, INC.**

Puerto Rico Telephone Company, Inc. ("PRTC"), by its attorneys, hereby replies to comments submitted in response to the Public Notice of the Federal-State Joint Board ("Joint Board") in the above-referenced proceeding.<sup>1</sup> The comments demonstrate that treatment as a "non-rural" carrier is inappropriate for mid-sized carriers and carriers serving insular areas. In addition, the hold-harmless policy should be retained until the Joint Board and Commission can determine that elimination of the policy will not harm universal service. At such time when that determination is made, universal service support should not be eliminated on a flash-cut basis, but phased-out over a transition period.

---

<sup>1</sup> Federal-State Joint Board on Universal Service Seeks Comment on the Interim Hold-Harmless Provision of the Commission's High-Cost Support Mechanism, CC Docket No. 96-45, Public Notice, FCC 99J-2 (rel. Nov. 3, 1999) ("Public Notice").

No. of Copies rec'd 614  
List ABCDE

---

**I. “NON-RURAL” TREATMENT IS INAPPROPRIATE FOR MID-SIZED CARRIERS AND CARRIERS SERVING INSULAR AREAS**

The Commission adopted a new federal high-cost support mechanism to determine universal service support amounts in the Ninth Report and Order.<sup>2</sup> This mechanism will provide support to non-rural carriers based on the estimated forward-looking costs of providing supported services, effective January 1, 2000.<sup>3</sup> By comparison, the support mechanism for rural carriers will remain unchanged at least until January 1, 2001. “Non-rural carriers” are those that fail to meet the statutory definition of a “rural telephone company,”<sup>4</sup> which designates a carrier as “rural” according to the population of the area served, the number of access lines served, or some combination of the two.<sup>5</sup> Accordingly, the Commission treats all carriers that do not meet the statutory definition of a “rural telephone company” as “non-rural” carriers.

The Commission’s “non-rural” versus “rural” distinction in the universal service context is based solely on differentiations among size that do not well suit Puerto Rico or PRTC. Other carriers in this proceeding find the “non-rural” versus “rural” distinction to determine universal service amounts problematic. For example, U S WEST Communications, Inc. (“U S WEST”) is “concerned with the inequity caused by the differentiation of support for rural and non-rural carriers.”<sup>6</sup> Specifically, “U S WEST’s rural customers are situated in rural areas with the same

---

<sup>2</sup> Ninth Report & Order and Eighteenth Order on Reconsideration, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, FCC 99-306, at ¶ 2 (rel. Nov. 2, 1999) (“Ninth Report and Order”).

<sup>3</sup> Id. at ¶¶ 2 and 11.

<sup>4</sup> Id. at ¶ 2 n.8.

<sup>5</sup> 47 U.S.C. § 153(37).

<sup>6</sup> Comments of U S WEST at 1.

distance, density and cost characteristics as the customers of carriers classified as ‘rural.’”<sup>7</sup>

Further, Sprint Corporation (“Sprint”) advances that elimination of the hold-harmless policy, without adoption of inputs that reflect accurately a company’s specific costs:

would produce a situation in which universal service support could be denied to a smaller LEC that serves primarily high cost areas but could not achieve the lower per unit costs that a larger LEC, serving both high and low cost areas, is able to achieve.<sup>8</sup>

Accordingly, “[t]he end result of the Commission’s decision . . . is the creation of a fund that . . . abandons existing high-cost providers.”<sup>9</sup> Consumers in similar high cost areas will be treated differently simply based on the size of the carrier that serves them. Such disparate treatment will have the greatest effect on consumers in high cost areas that are served by mid-sized carriers that lack the economies of scale or scope to absorb losses in universal service support that will result from the improper classification.

This is most evident in the case of Puerto Rico. Presently, Puerto Rico receives approximately \$133 million under current universal service mechanisms, all of which will be eliminated when the proxy model methodology becomes effective. However, the need for universal service support remains unchanged in Puerto Rico, where the island-wide penetration level in Puerto Rico is 74.2 percent, compared to the national average of 94.4 percent.<sup>10</sup> Puerto Rico plainly has a continuing need for universal service support. Despite this fact, universal

---

<sup>7</sup> Id. at 2 (emphasis added).

<sup>8</sup> Sprint Comments at 3. Sprint provides figures well demonstrating the difference between the costs generated by use of the proxy model and those generated by use of company-specific inputs. Specifically, an especially pronounced cost difference of more than 50 percent results in the rural portions of Sprint’s territory. Id.

<sup>9</sup> Comments of Sprint at 4.

<sup>10</sup> Telephone Subscribership in the United States (data through July 1999), Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, at 5, Table 1 (“Household Telephone Subscribership in the United States”) (rel. Oct. 1999).

service support will be eliminated entirely with implementation of the high-cost support mechanism because PRTC is considered a “non-rural” carrier.

Moreover, as a carrier serving an insular area, PRTC should not be treated as other “non-rural” carriers. Congress recognized that PRTC’s insular service territory embodies many of the same distance, density and cost characteristics faced by a rural carrier, meaning that treatment as a “non-rural” carrier would be inconsistent with Section 254(b)(3) of the Communications Act.<sup>11</sup> Although the Commission has been particularly concerned with preserving universal service support to these areas, none of Puerto Rico’s rural consumers will be protected by the existing policy. The loss of more than \$133 million in universal service support will likely result in significant consumer rate increases, affecting most severely Puerto Rico’s low income consumers in areas much like those served by “rural” carriers on the mainland. As a result, both present and potential subscribers may be driven off the network.<sup>12</sup>

Several commenters in this proceeding recognize the unique case presented by Puerto Rico with respect to universal service and some suggest a departure in policy for universal service to the island. For example, the California Public Utilities Commission (“CPUC”) reasoned that “it appears that most states eligible for hold-harmless support could absorb the loss of federal high cost funding with little funding on intrastate rates,” but Puerto Rico does not fall into such a category.<sup>13</sup> Specifically, CPUC submitted that “[m]any of the states show an annual

---

<sup>11</sup> 47 U.S.C. § 254(b)(3).

<sup>12</sup> Several commenters agree that current levels of support help maintain affordable rates. For example, the United States Telecom Association (“USTA”) states that “[t]he current level of hold-harmless high cost support to non-rural carriers is being used to keep local rates affordable. If this support is eliminated, higher and less affordable local rates will result.” Comments of USTA at 2.

<sup>13</sup> CPUC Comments at 4.

impact [resulting from elimination of the hold-harmless policy] of less than \$1 per loop.”<sup>14</sup>

However “[o]nly Puerto Rico would have an impact of more than \$5 per loop annually. In fact, the support lost to Puerto Rico would be more than \$100 per line.”<sup>15</sup>

Similarly, the New York State Department of Public Service (“NYDPS”) recommended “that the Commission adopt, as soon as possible, a transition period of no more than three years for the elimination of hold-harmless support for non-rural carriers, with the exception of the carriers serving Puerto Rico.”<sup>16</sup> In addition, the Roseville Telephone Company (“RTC”) believes that PRTC represents a “special case,” due, in part, to its “extremely high” LTS receipts.<sup>17</sup> These recommendations are premised on the fact that hold-harmless support cannot be eliminated in Puerto Rico without the occurrence of rate shock. For example, NYDPS correctly recognizes that:

[o]nly the two non-rural carriers serving Puerto Rico will receive hold-harmless amounts that represent a significant portion of their estimated costs of providing universal service. These companies, Puerto Rico Telephone Company and PRTC-Central, will receive \$8.52 and \$23.47 per line per month, respectively. A transition period of more than three years for phasing-out the hold-harmless provision would appear to be appropriate in these cases to avoid potential large local increases.<sup>18</sup>

---

<sup>14</sup> Id.

<sup>15</sup> Id. CPUC suggests that “[i]n determining a proper phase-out of the hold-harmless support to Puerto Rico, the Joint Board and the FCC may wish to examine further why Puerto Rico has been such a large recipient of federal high-cost support in light of the forward-looking cost model results.” Id. at 5. Universal service support to PRTC, like any other carrier, is determined pursuant to the Commission’s rules governing universal service and Long Term Support. PRTC also is concerned that the forward-looking methodology would eliminate all support.

<sup>16</sup> NYDPS Comments at 3 (emphasis added).

<sup>17</sup> PRTC Comments at 8 n.7.

<sup>18</sup> NYDPS Comments at 2 (emphasis added).

As a number of commenters acknowledge, Puerto Rico should continue to receive universal service support at current levels, regardless of the timeframe over which the hold-harmless policy is eliminated.

Universal service support levels for Puerto Rico should not be changed. Given the continued need for universal service support to Puerto Rico, the methodology for determining universal service support to Puerto Rico may be reassessed in the future when penetration levels on the island have substantially improved. This approach is necessary because Puerto Rico is served by a mid-sized carrier and is an insular area that is much more like an area served by “rural” carriers than an area served by “non-rural” carriers.

## **II. THE HOLD-HARMLESS POLICY SHOULD NOT BE ELIMINATED UNTIL THE MODEL METHODOLOGY IS DETERMINED TO BE CONSISTENT WITH THE PRINCIPLES OF UNIVERSAL SERVICE**

PRTC reiterates that the hold-harmless policy should be retained at least until the final results of the newly adopted high-cost support mechanism are fully analyzed and determined to be consistent with “the preservation and advancement of universal service.”<sup>19</sup> Many commenters in this proceeding, including GTE Service Corporation (“GTE”), USTA, and Roseville Telephone Company (“RTC”) support this recommendation. For example, GTE opposes premature elimination of the policy, which would cause “the precise problems of rate shock and disruption that both the Joint Board and the Commission are seeking to avoid.”<sup>20</sup> Similarly, USTA believes that the hold-harmless policy should be maintained “until the potential for rate shock is eliminated.”<sup>21</sup> RTC recommends that “it would be imprudent to reduce present funding

---

<sup>19</sup> 47 U.S.C. § 254(b).

<sup>20</sup> GTE Comments at 3.

<sup>21</sup> USTA Comments at 4.

until the full review of the new system is completed.”<sup>22</sup> Moreover, RTC states that “[i]t is RTC’s position that phase out of existing USF support should not even be considered until the FCC and the Joint Board complete the comprehensive review of the new explicit mechanism, to be completed no later than January 1, 2003.”<sup>23</sup> PRTC supports these recommendations.

By comparison, certain commenters proposed a variety of methods by which the hold-harmless policy should be eliminated, ranging from immediate elimination to elimination over a one, two or three year period.<sup>24</sup> PRTC opposes these proposals because they adopt arbitrary elimination periods, without considering the impact that the new high-cost support mechanism will have on universal service principles. In addition, proposals of several public utility commissions readily sacrifice universal service principles in order to minimize the burden on states and taxpayers that contribute to universal service support.<sup>25</sup>

Elimination of the hold-harmless policy, (either immediately or over a one, two or three year period) would amount to “putting the cart before the horse,” at least until comprehensive review of the model methodology’s final results and assessment of such results on the principles of universal service are completed. PRTC recognizes that the hold-harmless policy was designed as an interim measure. However, “proper management of the hold harmless

---

<sup>22</sup> RTC Comments at 8.

<sup>23</sup> Id. at 7 (emphasis added).

<sup>24</sup> CPUC and the Public Services Commission of the District of Columbia (“DCPSC”), advance that the hold-harmless policy should be eliminated immediately. CPUC Comments at 3; DCPSC Comments at 1 & 5. A second proposal, advanced by Western Wireless Corporation (“Western Wireless”), suggests that the hold-harmless policy should apply for “no longer than one year.” Western Wireless Comments at 2. An alternative proposal advanced by DCPSC suggests that the hold-harmless policy should be phased out “on a semi-annual basis,” commencing in January 2001. DCPSC Comments at 4. Most commenters supporting elimination of the hold-harmless policy over a three year period. CPUC Comments at 4; SBC Comments at 2; NYDPS Comments at 3.

<sup>25</sup> See DCPSC Comments at 1; CPUC Comments at 3.

mechanism [is] absolutely crucial”<sup>26</sup> to ensure that premature elimination of the policy does not result in the same rate shock that the policy was designed to prevent.

Thus, PRTC reiterates that the hold-harmless policy should be maintained until final results of the new high-cost support mechanism are analyzed and determined to be consistent with “the preservation and advancement of universal service.”<sup>27</sup> Such a course is absolutely imperative given the concerns expressed by commenters that the models and inputs used by the Commission do not accurately reflect the costs of providing local service.<sup>28</sup>

### **III. CONCLUSION**

The comments in this proceeding demonstrate that the model methodology for “non-rural” carriers is not suitable for mid-sized carriers and carriers serving insular areas, such that the hold harmless policy should remain in effect for these carriers until an appropriate

---

<sup>26</sup> Sprint Comments at 2.

<sup>27</sup> 47 U.S.C. § 254(b); PRTC Comments at 9-10.

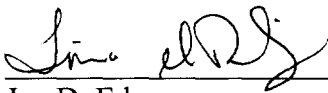
<sup>28</sup> See. e.g., GTE Comments at 3 n.6.



methodology is developed. PRTC reiterates that the hold-harmless policy must be retained until the Joint Board and Commission can determine that elimination of the policy will not negatively impact universal service. In any event, once the Joint Board and Commission have determined the elimination of the hold-harmless policy will not negatively impact universal service, support should not be eliminated on a flash-cut basis, but phased-out over a transition period.

Respectfully submitted,

PUERTO RICO TELEPHONE COMPANY, INC.

By:   
\_\_\_\_\_  
Joe D. Edge  
Tina M. Pidgeon  
Courtney R. Eden  
DRINKER BIDDLE & REATH LLP  
1500 K Street, N.W.  
Suite 1100  
Washington, DC 20005  
(202) 842-8800  
Its Attorneys

December 15, 1999

## CERTIFICATE OF SERVICE

I, Tina M. Pidgeon, certify that a copy of the foregoing Reply Comments was mailed by first-class mail, postage pre-paid, on the 15<sup>th</sup> day of December, 1999 to each of the following individuals or entities:

William E. Kennard  
Commissioner  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554

Susan Ness  
Commissioner  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554

Michael K. Powell  
Commissioner  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554

Harold W. Furchtgott-Roth  
Commissioner  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554

Gloria Tristani  
Commissioner  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554

Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554  
**(By Hand Delivery)**

Martha Hogerty  
Public Counsel  
Missouri Office of Public Counsel  
301 West High Street, Suite 250  
Truman Building  
P.O. Box 7800  
Jefferson City, MO 65102

Laska Schoenfelder  
Commissioner  
South Dakota Public Utilities Commission  
State Capitol, 500 East Capitol Street  
Pierre, SD 57501-5070

Patrick H. Wood, III  
Chairman  
Texas Public Utility Commission  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

Sheryl Todd  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 5-B540  
Washington, DC 20554

Peter Bluhm  
Director of Policy Research  
Vermont Public Service Board  
Drawer 20  
112 State Street, 4<sup>th</sup> Floor  
Montpelier, VT 05620-2701

Charlie Bolle  
Policy Advisor  
Nevada Public Utilities Commission  
1150 E. Williams Street  
Carson City, NV 89701-3105

Rowland Curry  
Policy Consultant  
Texas Public Utility Commission  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, TX 78701

Ann Dean  
Assistant Director  
Maryland Public Service Commission  
6 Paul Street, 16<sup>th</sup> Floor  
Baltimore, MD 21202-6806

Carl Johnson  
Telecom Policy Analyst  
New York Public Service Commission  
3 Empire State Plaza  
Albany, NY 12223-1350

Lori Kenyon  
Common Carrier Specialist  
Alaska Public Utilities Commission  
1016 West 6<sup>th</sup> Avenue, Suite 400  
Anchorage, AK 99501

David Dowds  
Florida Public Service Commission  
2540 Shumard Oaks Blvd.  
Gerald Gunter Building  
Tallahassee, FL 32399-0850

Greg Fogleman  
Florida Public Service Commission  
2540 Shumard Oaks Blvd.  
Gerald Gunter Building  
Tallahassee, FL 32399-0850

Doris McCarter  
Economist  
Ohio Public Utilities Commission  
Telecommunications, 3<sup>rd</sup> Floor  
180 East Broad Street  
Columbus, OH 43215

Philip McClelland  
Assistant Consumer Advocate  
PA Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923

Susan Stevens Miller  
Assistant General Counsel  
Maryland Public Service Commission  
16<sup>th</sup> Floor, 6 Paul Street  
Baltimore, MD 21202-6806

Mary E. Newmeyer  
Federal Affairs Advisor  
Alabama Public Service Commission  
100 N. Union Street, Suite 800  
Montgomery, AL 36104

Tom Wilson  
Economist  
Washington Utilities & Transportation  
Commission  
1300 Evergreen Park Drive, S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250

Edward M. Meyers  
Acting Chair  
Public Service Commission of the  
District of Columbia  
717 Fourteenth Street, N.W., Suite 200  
Washington, DC 20005

Peter Arth, Jr.  
Lionel B. Wilson  
Ellen S. LeVine  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Lawrence G. Malone  
General Counsel  
Public Service Commission  
of the State of New York  
Three Empire State Plaza  
Albany, NY 12223-1350

Richard A. Askoff  
National Exchange Carrier Association, Inc.  
80 South Jefferson Road  
Whippany, NJ 07981

Steven R. Beck  
U S WEST Communications, Inc.  
Suite 700  
1020 19<sup>th</sup> Street, N.W.  
Washington, DC 20036

Alfred G. Richter, Jr.  
Roger K. Toppins  
Hope Thurott  
SBC Communications, Inc.  
One Bell Plaza  
Room 3023  
Dallas, TX 75202

Margot Smiley Humphrey  
NRTA  
Koteen & Naftalin, LLP  
1150 Connecticut Avenue, N.W.  
Washington, DC 20036

L. Marie Guillory  
NTCA  
4121 Wilson Boulevard  
Tenth Floor  
Washington, DC 20037

Kate Kaercher  
Stuart Polikoff  
OPASTCO  
21 Dupont Circle, N.W.  
Suite 700  
Washington, DC 20036

Michele C. Farquhar  
David L. Sieradzki  
Ronnie London  
Counsel for Western Wireless Corporation  
Hogan & Hartson, LLP  
555 Thirteenth Street, N.W.  
Washington, DC 20004-1109

Jeffrey S. Linder  
Suzanne Yelen  
Counsel for GTE Service Corporation  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, DC 20006


Lawrence E. Sarjeant  
Linda L. Kent  
Keith Townsend  
John W. Hunter  
Julie L. Rones  
United States Telecom Association  
1401 H Street, N.W.  
Suite 600  
Washington, DC 20005

Glenn H. Brown  
McLean & Brown  
9011 East Cedar Waxwing Drive  
Chandler, AZ 85248

Paul J. Feldman  
Counsel for Roseville Telephone Company  
Fletcher, Heald & Hildreth, PLC  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209

Jay C. Keithley  
Sprint Corporation  
1850 M Street, N.W., 11<sup>th</sup> Floor  
Washington, DC 20036-5807

Sandra K. Williams  
Sprint Corporation  
901 East 104<sup>th</sup> Street  
Mailstop MOKCMD0204  
Kansas City, MO 64131

A handwritten signature in black ink, appearing to read "Tina M. Pidgeon", is written over a horizontal line.

Tina M. Pidgeon